IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.F.A. No. 1339 of 1992 (O&M)

Date of decision: 06.10.2010

Sarjit Singh and others .... Appellants

vs

Punjab State and others .... Respondents

Coram : Hon'ble Mr. Justice Rajesh Bindal

Present:- Mr. Anupam Singla, Advocate, for the appellants.

Mr. Yatinder Sharma, Deputy Advocate General, Punjab.

RAJESH BINDAL, J

The land owners are in appeal before this Court against the award of the learned court below passed under Section 18 of the Land Acquisition Act, 1894 (for short, `the Act') seeking enhancement of compensation for the acquired land.

Briefly, the facts of the case are that land measuring 22 kanals 16 marlas situated in village Bilaspur, Hadbast No. 170, Tehsil Moga, District Faridkot, was acquired by the State of Punjab, vide notification dated 11.11.1987 issued under Section 4 of the Act for construction of Sub-Station by the Punjab State Electricity Board. The Land Acquisition Collector (for short, `the Collector') vide his award dated 29.5.1989 assessed the market value of the acquired land @ ₹ 30,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to learned District Judge, Faridkot. On reference under Section 18 of the Act, the learned court below vide award dated 2.1.1992 assessed the compensation at ₹ 39,000/- per acre. It is this award which is impugned in the present appeal.

Learned counsel for the landowners submitted that the evidence produced on record by the landowners has not been considered by the learned court below. The sale-deeds, Ex. PD, Ex. PE, and Ex. PF, have been totally ignored. The court below while assessing the market value of the acquired land had also ignored the fact that it is surrounded by the residential houses. At the time of acquisition the value of the land was not less than ₹ 1,50,000/- per acre. The submission was that fair value of the acquired land be assessed in terms of the evidence led.

On the other hand, learned counsel for the State submitted that the evidence led by the State was totally ignored. The land which was sold on 9.3.1987, vide sale-deed, Ex. R-5, is located adjoining to the acquired land. But the court has not relied upon the same and assessed the market value of the acquired land @ ₹ 39,000/- per acre without any basis. The sale-deeds produced by the appellants cannot be relied upon for the purpose of assessment of fair value of the acquired land as the location thereof is not known. The submission was for dismissal of the appeal.

Heard learned counsel for the parties and perused the relevant referred record.

In the present case the land was acquired for the purpose of construction of Sub-Station by the Punjab State Electricity Board. The submission of the counsel for the appellants that there were residential houses near the acquired land is without any basis for the reason that normally an electric Sub-Station is constructed far away from the residential area due to high tension supply. The appellants had failed to prove on record that the acquired land is surrounded by houses as no one had appeared in the witness box whose house was located on the acquired or near the acquired land. Further the appellants have not led any evidence in support of their claim that the acquired land is located in the abadi area.

As far as sale-deeds, Ex. PD, Ex. PE, and Ex. PF, are concerned, the same are not located on the site plan produced on the record by the landowners, as Ex. PA. Therefore, these cannot be relied upon. The land involved in these sale-deeds is located near the abadi, whereas the acquired land is situated far away from the abadi area.

The most relevant piece of evidence for determination of fair market value of the land is Ex. R-5, vide which land measuring one acre was sold at an average price of ₹ 20,000/- per acre on 9.3.1987. It is just adjoining the acquired land as has been located on the site plan, Ex. R-1, produced on record by the State. However, as the award of the Collector was even more than the average price per acre paid in this sale-deed. Even the landowners had produced on record sale-deeds, Ex. PB and Ex. PC, showing average per acre price of ₹ 36,000/- per acre.

Considering the aforesaid material, in my opinion, no case for enhancement is made out. Accordingly, the appeal is dismissed.

06.10.2010 **(Rajesh Bindal)**
vs **Judge**